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MAILED
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OFFICE OF PETITIONS

In re Patent of Lu et al. : DECISION ON REQUEST
Patent No. 7,645,859 : FOR RECONSIDERATION OF
Issue Date: January 12, 2010 : PATENT TERM ADJUSTMENT
Application No. 10/582,316 : and
Filed: February 20, 2007 : NOTICE OF INTENT TO ISSUE
Docket No. 31265/5868A : CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR OF PATENT TERM UNDER 37 CFR § 1.705(d)," filed February 16, 2010. Patentees request that the patent term adjustment indicated in the patent be corrected from seventy (70) days to two hundred twenty-five (225) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred twenty-five (225) days.

On January 12, 2010, the above-identified application matured into U.S. Patent No. 7,645,859. The instant request for reconsideration filed February 16, 2010 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The patent issued with a revised Patent Term Adjustment of 70 days. Patentees argue that the Office failed to properly calculate the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay"). In addition, patentees dispute the reduction of one hundred twenty (120) days due to "Workflow-Drawings Finished" as no drawings were submitted after the Notice of Allowance was mailed in the case.

Patentees assert the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 216 days, beginning on June 11, 2009 and ending on January 12, 2010. Patentees assert the period of overlap between 35 U.S.C. § 154(b)(1)(A) ("A Delay") and B Delay as 36 days, beginning on December 8, 2009 and ending on January 12, 2010). The Office concurs with these assertions.

A review of the PALM calculations for this application reveals that the initial determination of PTA of 190 days was reduced by 120 days for applicant's submission of drawings after the mailing of the Notice of Allowance. See 37 CFR 1.704(c)(10). However, a review of the application record supports a conclusion that no drawings were filed in this application after the mailing of the Notice of Allowance.

In view thereof, the reduction of 120 days is not warranted and is being removed.

As such, the patent term adjustment indicated in the patent should have been two hundred twenty-five (225) days, which is 69 A Delay + 216 B Delay - 36 overlap - 24 Applicant Delay.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify these errors. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred twenty-five (225)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.



Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,645,859 B2

DATED : January 12, 2010

DRAFT

INVENTOR(S) : Lu et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 70 days

Delete the phrase "by 70 days" and insert -- by 225 days--